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December 7, 2017

Honorable Kevin de Leon,
California Senate President Pro Tempore
State Capitol, Room 205
Sacramento, CA 95814

Honorable Anthony Rendon
Speaker of the California Assembly
State Capitol, Room 219
Sacramento, CA 95814

Re: Request for Legislative Action to Investigate California Public Utility Commission

Dear Honorable de Leon and Honorable Rendon:

We are writing to request the California Senate and Assembly come together to convene a Select Joint Committee to investigate and reform the California Public Utilities Commission (CPUC). The CPUC's failure to serve its mission to protect the safety of California citizens, its continued communications in secret with the utilities, its lack of transparency in its operations and proceedings, and the resulting injury to the physical and economic health of Californians make critical the need for oversight and reform of the Commission.

We have publicly raised these concerns for the public's safety for years, including by our January 2015 Malfeasance Report. The CPUC did nothing in response. Last week we redistributed the report, which updates the CPUC's failure to protect the people from the SDG&E-caused SDG&E 2007 fires, the PG&E-caused gas explosion, the 2012 SCE nuclear radiation leak, and the 2015 SoCal Gas Aliso Canyon methane leak.

At the 30 November 2017 CPUC meeting, Mr. Aguirre appeared and reminded the Commission of Carmen Berriz' death while in her husband Armando's arms trying to elude the Tubbs Fire. He reminded them of Jacqueline Greig and her 13-year-old daughter, Janessa, who died in their San Bruno home when the PG&E San Bruno gas line exploded. These victims are not here to ask the CPUC why they did not enforce the safety rules that could have saved their lives.

CPUC President Picker pledged transparency upon being appointed to fill the seat of the disgraced Commissioner Peevey, yet what action has he taken other than his hollow rhetoric? Has he increased the Commission staff responsible for safety?

The people of California need action now. How many more lives, homes and businesses need to be lost? We ask the Legislature to step in to take all actions necessary to ensure the CPUC starts strictly enforcing safety rules. Convening a Joint Select Committee is a necessary first step.

I. BACKGROUND

The CPUC is charged with the duty of protecting California citizens by enforcing safety rules against California's investor-owned utilities: Pacific Gas & Electric (PG&E), Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E). However, the CPUC is a regulatory agency that has been captured by these three utilities. Utility executives have fallen into the practice of managing the CPUC, rather than managing their companies under the CPUC's intended regulatory regime.

The attached report, MALFEASANCE AT THE CPUC THREATENS SAFETY AND SECURITY OF THE PEOPLE OF CALIFORNIA, Aliso Methane Leak and Northern California Fires Update, Published 15 January 2015; Updated 10 November 2017, sets forth the pattern of malfeasance and obstruction of justice by the CPUC.

Malfeasance has spread into the CPUC's bone marrow. The CPUC has failed to enforce safety rules. Its pattern of oversight failure has led to a pattern of tragic incidents resulting in injury, and worse, the death of innocent victims. It has led to the 2007 SDG&E reclosers igniting catastrophic fires in San Diego that destroyed hundreds of homes. It has led to the 2010 PG&E gas lines exploding in San Bruno that caused eight deaths. It has led to the 2012 failure of SCE's new steam generators at San Onofre causing a radiation leak, the closure of the plant, and the storage of nuclear waste on San Diego's beach. It has led to SoCalGas' (an SDG&E affiliate) historic methane leak at Aliso Canyon. And just recently, it has led to another round of catastrophic fires that killed 42—this time in Northern California where audits revealed the CPUC failed to hold PG&E responsible for PG&E's failure in thousands of instances over a five-year period to conduct timely inspections. The public's lost confidence in utilities based on these past fires caused SCE's stock to fall this week amidst uncontained fires that continue to ravage more than 100,000 acres in the Ventura/Los Angeles area.¹

"Regulatory capture" is a form of political corruption that occurs when a regulatory agency, created to act in the public interest, instead advances the commercial or political concerns of special interest groups that dominate the industry or sector it is charged with regulating. A regulatory agency succumbs to regulatory capture when special interests co-opt policymakers to further the special interests' own ends.

CPUC President Michael Picker acknowledged the safety lapses at the CPUC when he took over the agency after outgoing President Peevey left after a search warrant found evidence he rigged a secret deal with the SCE to put billions on the backs of utility customers for the failed San Onofre nuclear plant. President Picker announced safety would be his highest priority. However, Picker's actions and attitudes demonstrate that under his reign, the CPUC continues to operate under the direction of the utilities the CPUC is supposed to regulate. CPUC decision makers conduct the business of the CPUC in secrecy. These decision makers do the CPUC's business with utility executives outside Commission proceedings in secret at luxury resorts in the United

¹ San Francisco Chronicle, Power lines may be shut down for safety San Francisco Chronicle Late Edition · 7 Dec 2017.

States and in foreign lands, at expensive restaurants, by email and in face-to-face meetings. CPUC decision makers leak insider CPUC regulatory information to utility institutional investors and Wall Street analysts.

President Picker's primary focus has been in three areas: (1) covering up the past wrongful conduct of CPUC officials, (2) protecting the utilities' interests above those of the citizens, and (3) expanding the California electric grid into a regional system in which California voters would lose control over the appointment of the system's governing board.

Under Picker, the CPUC withheld for two years records requested under the Public Records Act and the California Constitution: 133 writings -- 67 communications between the CPUC and the Governor's office, and 66 communications between CPUC President Picker and his staff and other state officials. When the San Francisco appellate court ordered the CPUC to produce these documents to the court for its review in October 2017, the CPUC changed its story on the number of documents concealed.

Under Picker, the CPUC has obtained \$12 million dollars in funding from the Legislature for the stated purpose of cooperating with criminal investigations, but only to then use those funds to block the investigation into its practices. The Superior Court on 20 November 2017 released records that were part of a criminal search warrant file shows the funds were obtained under false pretenses, and that the money was used not to cooperate, but instead, to delay or obstruct the CPUC's responses and production of records.

The unsealed search warrant records also reveal the Superior Court judge had to issue an order compelling the CPUC to produce records, finding:

[] there were sufficient facts alleged in the affidavit that would lead to a strong suspicion of guilt that Michael Peevey-former President of the CPUC, and Stephen Pickett-former Executive President of External Relations at Southern California Edison, conspired to engage in an ex parte communication during a pending rate setting proceeding, with the intent to effect the outcome of the proceeding, without notice to the parties, and without reporting the communication. These facts are sufficient to find nonfeasance, and even malfeasance, on their part, establishing probable cause that they conspired to obstruct justice, or the due administration of the laws.²

The CPUC's actions, using publicly obtained funds, do not serve the public interest, and are but another way the CPUC abuses its power.

² August 12. 2-16 Minute Order of the Hon. William C. Ryan, Los Angeles Superior Court in Search Warrant matter: SW-79763.

II. A JOINT SELECT COMMITTEE IS NEEDED TO INVESTIGATE THE CPUC'S FAILURE TO PERFORM ITS SAFETY ENFORCEMENT DUTIES

The California Legislature has an opportunity to convene a joint select committee to investigate the CPUC and determine necessary reform.

If the CPUC's actions are unabated, putting the CPUC in receivership would be proper. The CPUC has demonstrated an unwillingness at worst, and an inability at best, to provide the safety enforcement functions with which it is charged. Just like the California prison medical care system was found by a United States District Court judge in 2005 to be "broken beyond repair," so too is the CPUC broken beyond repair.

Like the judge found the prison system then, "the harm already done [to the people of California] could not be more grave, and the threat of future injury and death is virtually guaranteed in the absence of drastic action."³ The Legislature and the people of California have given the CPUC every reasonable opportunity to bring its Commission up to constitutional standards, and it is beyond reasonable dispute that the CPUC has failed. The deaths that resulted from the CPUC's regulatory capture barely provides a window into the waste of human life and the economic harm caused by the gross failures of the CPUC.


It is in this condition that the Legislature is now called to act, or the CPUC will be ripe for a federal lawsuit and a request for an appointment of a receiver.

III. CONCLUSION

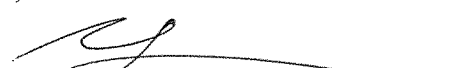
There is a demonstrated pattern of malfeasance, a culture of secrecy, and an over-emphasis of ensuring profits for utilities at the CPUC. The consequences of the failures at the CPUC are not just excessive rates — they are the safety and security of the people of California. We respectfully urge the Legislature to convene a joint select committee of Senators and Assembly Members to oversee a thorough investigation and a determination of how to reform the CPUC so it can achieve its core mission of protecting the safety of the people of California.

Respectfully,

AGUIRRE & SEVERSON, LLP



Michael J. Aguirre, Esq.



Maria C. Severson, Esq.

cc: Hon. Toni Atkins

³ Plato v. Arnold Schwarzenegger, Case No. C01-1351-THE, Findings of Fact and Conclusions of Law re Appointment of Receiver issues October 3, 2005.